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**FEB - 3 2012**  
DIVISION OF OCCUPATIONAL  
& PROFESSIONAL LICENSING

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**OF THE DEPARTMENT OF COMMERCE**  
**OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSES OF	)	
<b>ARIF CHOWDHURY</b>	)	<b>STIPULATION AND ORDER</b>
TO PRACTICE AS A	)	
PHYSICIAN SURGEON AND TO	)	CASE NO DOPL 2012- 41
ADMINISTER AND PRESCRIBE	)	
CONTROLLED SUBSTANCES	)	
IN THE STATE OF UTAH	)	

Arif Chowdhury ("Respondent") and the Division of Occupational and Professional  
Licensing of the Department of Commerce of the State of Utah ("Division") stipulate and agree  
as follows

1 The Respondent admits the jurisdiction of the Division over the Respondent and over  
the subject matter of this action

2 The Respondent acknowledges that he enters into this Stipulation and Order  
( "Stipulation") knowingly and voluntarily

1

3 The Respondent understands that he has the right to be represented by counsel in this matter, and his signature below signifies that he has been represented by Jay Mohlman in this case

4 The Respondent understands that he is entitled to a hearing before the State of Utah's Physician Licensing Board ("Board"), or other Division Presiding Officer, at which time he may present evidence on his own behalf, call witnesses, and confront adverse witnesses. The Respondent acknowledges that by executing this document he hereby waives the right to a hearing and any other rights to which he may be entitled in connection with said hearing. The Respondent understands that by signing this document he hereby knowingly and intelligently waives the right to all administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405, and Utah Administrative Code R151-46b-12 through R151-46b-15. The Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4). The Respondent further understands that this Stipulation acts as a de facto Petition and Notice of Agency Action, and that his decision to enter into a settlement agreement with the Division, in effect, waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

5 The Respondent acknowledges that this Stipulation, if adopted by the Director of the Division, will be classified as a public document. The Division may release this Stipulation, and will release other information about this disciplinary action against the Respondent, to other persons and entities.

6 The Respondent admits that the following facts are true:

a. On or about April 9, 1997, the Respondent was first issued a license to

practice as a physician and surgeon in the State of Utah, and to administer and prescribe controlled substances

- b On or about February 4, 2010, the Respondent was inattentive to a patient's needs and communicated with a patient in a manner that led to the patient coming away from the interaction with a different interpretation of the Respondent's actions and words
- c On or about February 4, 2010, the Respondent, while attempting to do a spinal tap on the same patient involved in provision 6(b) of this Stipulation made an inordinate number of punctures/pokes in the patient's back. Some of the punctures were made to deaden the pain for the patient. Another doctor reviewed this case and concluded that the Respondent did not practice to the appropriate standard of care in this matter
- d On or about March 4, 2010, the Respondent's staff erroneously gave one patient another patient's medical records

7 The Respondent admits that his conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (g), and Utah Admin. Code R156-67-502(15), and that the Respondent's conduct described above justifies disciplinary action against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a). The Respondent agrees that an Order, which constitutes disciplinary action against the Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(6) and Utah Code Ann. § 58-1-401(2)(a), may be issued in this matter providing for the following action against the Respondent's licenses:

- (1) The Respondent's licenses to practice as a physician and surgeon and to administer and prescribe controlled substances shall be placed on probation for a period of two years from the date the Division Director signs this Stipulation ("the effective date of this Stipulation"). If the Board/Division later deems any of the conditions unnecessary, such deletions may be made by an amended order issued unilaterally by the Division.
- (2) The Respondent shall meet with the Board within thirty (30) days of the effective date (or as soon as possible if the Board is not meeting within this 30-day time period) to discuss the misconduct described above. After

this initial meeting, the Respondent will meet with the Division and the Board at a frequency that the Board and Division deems necessary

- (3) The Respondent shall complete the PRIME Course on Ethics in New Jersey within a year of the date this Stipulation is signed by the Division Director ("the effective date") These credit hours from the PRIME Course can be used to satisfy any required CME hours that the Respondent has to complete in order to remain certified as a physician and surgeon The Respondent will follow recommendations made for him by the PRIME Course supervisors/instructors Within two months after he has completed the PRIME Course, the Respondent will draft an essay and discuss with the Board and the Division what he learned from the PRIME Course and the changes he will make in his practice
- (4) The Respondent shall practice under the supervision of a DOPL-approved physician who is competent in performing and has experience doing spinal taps The supervisor shall review 20% of the Respondent's case files and supervise the Respondent whenever the Respondent is performing spinal taps during the probationary period The supervisor shall also discuss communication, ethical and record keeping issues with the Respondent, and the supervisor must certify in writing that the Respondent is competent to perform spinal taps if the Respondent wants to continue doing spinal taps after his probationary period The supervisor shall submit to the Board and Division a statement indicating his or her willingness to supervise and submit reports and a resume On a monthly basis for the first six months (and then quarterly if approved by the Division and Board) for the duration of the Respondent's probation, the Respondent's supervisor will submit to the Division and Board a report on the Respondent's work performance and any relevant observations, concerns, etc about the Respondent's work performance The Respondent is responsible for any and all payments to the supervisor
- (5) The Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status This notification is required regardless of whether the Respondent is employed in his profession
- (6) If the Respondent leaves the State of Utah for a period longer than sixty (60) days, he shall notify the Division and Board in writing of the dates of his departure and return If the Respondent seeks licensure in another jurisdiction, he shall adhere to the licensing requirements of that jurisdiction regarding notification of the provisions of this Stipulation Periods of residency or practice outside the State of Utah may apply to the

reduction of the period this Stipulation is in effect if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation

- (7) If the Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should the Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, the Respondent agrees to cause the Division and Board to be notified immediately. If the Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, with the exception of a minor traffic offense, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge but excluding criminal charges arising out of the circumstances that form the basis for this Stipulation, the Division may take appropriate action against the Respondent, including imposing appropriate sanctions, after notice and an opportunity for a hearing. Such sanctions may include revocation or suspension of the Respondent's license, or other appropriate sanctions.
- (8) The Respondent must maintain current professional licenses at all times during the period of this agreement.
- (9) The Respondent shall immediately notify the Division in writing of any changes in his residential or business addresses.
- (10) The Respondent shall notify any employer of the terms of this agreement by providing each of his employers a copy of this Stipulation. The Respondent will also cause each employer to acknowledge to the Division and Board in writing that a copy of this Stipulation has been provided to the employer. He shall further cause his employer to submit performance evaluations to the Division and Board on a monthly basis for the first six months (and then quarterly if approved). The receipt of an unfavorable report may be considered to be a violation of his probation. If the Respondent is not employed as a physician, he shall submit the required employer report form on the date it is due and indicate on that form that his current employment is not in medicine or that he is not currently working. If the Respondent is self-employed, he will complete the required paperwork and submit it to the Division and Board.

8 This Stipulation, upon approval by the Director of the Division, shall be the

final compromise and settlement of this non-criminal administrative matter. The Respondent acknowledges that the Director is not required to accept the terms of this Stipulation, and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment the Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

9. The Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to his practice as a physician/surgeon and the administering and prescribing of controlled substances.

10. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

11. The terms and conditions of this Stipulation become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. The Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation. The Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner. If a time period for completion of a term or condition is not specifically set forth in the Stipulation, the Respondent agrees that the time period for completion of that term or condition shall be set by the Division and

Board Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and may subject the Respondent to revocation or other sanctions

12 If the Respondent violates any term or condition of this Stipulation, including the failure to pay any required fees in a timely manner, the Division may take action against the Respondent, including imposing appropriate sanctions, in the manner provided by law Such sanctions may include revocation probation or suspension of the Respondent's licenses, or other appropriate sanctions


13 The Respondent has read each and every paragraph contained in this Stipulation He understands each and every paragraph contained in this Stipulation, and he has no questions about any paragraph or provision contained in this Stipulation Further, the Respondent admits that he has not been coerced, bullied or unduly influenced in any way into entering into this Stipulation

DIVISION OF OCCUPATIONAL &  
PROFESSIONAL LICENSING

BY   
NOEL TAXIN  
Bureau Manager

DATE 2/6/12

RESPONDENT

BY   
ARIN CHOWDHURY  
Respondent

DATE 1/31/2012

**ACKNOWLEDGED AND APPROVED**

MARK L. SHURTLEFF  
ATTORNEY GENERAL

BY

**Dan Lau**

Counsel for the Division

DATE

2/6/12

**Jay Mohlman**

Counsel for the Respondent

DATE

Jan. 31, 2012

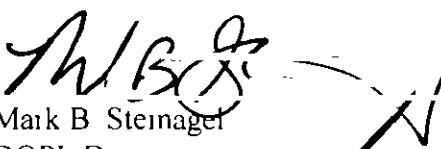


**ORDER**

THE ABOVE STIPULATION AND ORDER, in the matter of **ARIF CHOWDHURY**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(6) and Utah Code Ann § 58-1-401(2)(a). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 7 day of February, 2012

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING

  
Mark B. Steinagel  
DOPL Director